

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**

BERNEST BENJAMIN,

Plaintiff,

v.

No. 14-cv-0784 JB/SMV

**JAMES JACKSON, LAWRENCE ARTIAGA,
and MICHAEL HOHMAN,¹**

Defendants.

ORDER TO SHOW CAUSE

THIS MATTER is before the Court sua sponte. Plaintiff filed his Complaint against all Defendants on August 28, 2014. [Doc. 1] at 1. Defendant Jackson has never been served. Because Plaintiff paid the full filing fee, *see* [Doc. 4] and, thus, is not proceeding *in forma pauperis*, 28 U.S.C. § 1915(d)—which allows officers of the Court to serve process on behalf of indigent Plaintiffs—does not appear to be available. Defendant Jackson is no longer employed by NMCD, *see* [Doc. 14] at 1, and is not represented by Defendant Artiaga and Hohman’s counsel. The Court ordered the Clerk of the Court to send issue notice and waiver-of-service forms to Defendant Jackson, but Jackson never waived service. In response to a request from Plaintiff [Doc. 10], the Court ordered Defendants Artiaga and Hohman to produce to Plaintiff the last known address of Defendant Jackson. [Doc. 20]. Defendants did so on December 15, 2015. [Doc. 21].

A plaintiff has 90 days from filing the Complaint within which to effect service of process. Fed. R. Civ. P. 4(m). Very generously giving Plaintiff 90 days from when he received

¹ Defendants have indicated that the correct spelling is “Hohman,” rather than “Holman.” *See* [Doc. 19] at 1 n1.

Defendant Jackson's address from the other Defendants, he is well beyond the 90-day deadline. There is no indication on the record that service of process has been effected with respect to Defendant Jackson.

IT IS THEREFORE ORDERED that Plaintiff show good cause why his claims against Defendant Jackson should not be dismissed without prejudice for failure to comply with the service provision of Rule 4(m). *See Espinoza v. United States*, 52 F.3d 838, 841 (10th Cir. 1995). Plaintiff must file his response within 21 days of entry of this Order.

IT IS SO ORDERED.



STEPHAN M. VIDMAR
United States Magistrate Judge